

REMARKS

Applicant respectfully requests consideration of the subject application. This Response is submitted in response to the Office Action mailed July 22, 2009. Claims 1-26 are pending. Claims 1-26 are rejected. In this Amendment, claims 1, 4-7, 10-13, 16, 19, 22, and 25 have been amended. No new matter has been added.

35 U.S.C. § 101 Rejections

The Examiner has rejected claims 1-12 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-12 have been amended to more clearly point out the statutory subject matter to which they are directed.

Applicant, accordingly, respectfully requests withdrawal of the rejections under 35 U.S.C. § 101.

35 U.S.C. § 103 Rejections

The Examiner has rejected claims 1-26 under 35 U.S.C. § 103(a) as being unpatentable over Davis et al., (U.S. Patent No.: 6,269,361, hereinafter “Davis”) in view of Canali et al. (U.S. Patent No.: 7,272,579, hereinafter “Canali”).

The present claims are patentable over the combination of Davis and Canali at least because the combination fails to teach or suggest the limitations of receiving a primary bid, receiving a secondary bid to increase a monetary amount of the primary bid, and determining a total bid for each primary bidder by combining a primary bid and a secondary bid as required by the present claims.

As noted in Applicant’s Response dated February 26, 2009, the objective of Canali is volume discounting: “In the system of FIG. 1, for example, consumers will be able to combine requests for purchase of goods and services from a plurality of vendors to obtain volume discounts.” *Canali*, col. 8, lines 29-32. “The embodiment includes a supply and demand based transaction model. Volume based discounting is correlated with supply and demand. The embodiment is based on a bilateral buyer driven process which may be utilized by organizations that would like to purchase significant amounts of goods or services at the lowest possible price or best value.” *Id.*, col. 8, lines 53-59.

To achieve the volume discounting of Canali, the bids of vendors are combined. For example, “in the method 2100, the first machine includes a first computer operated by a potential consumer, the second machine includes a second computer operated by a first potential vendor, and the third machine includes a third computer operated by a second potential vendor.” *Id.*, col. 16, lines 63 - 68. “In block 2115, the method 2100 receives, through the network, a first bid from the second machine and a second bid from the third machine, the first bid and the second bid being based on the request for the item. In block 2120, the method 2100 determines a third bid, the third bid being based on (i) the first bid and (ii) the second bid. The method 2100 may also receive, through the network, the third bid from at least one of (i) the second machine and (ii) the third machine.” *Id.*, col. 16, lines 53-62.

Thus, Canali discloses the combining of bids to increase the number of items purchased so that a volume discount price for the items may be received. However, Canali does not teach or suggest combing bids so that the monetary amount of a bid for one item increases as required by the present claims.

The Office Action notes that “Davis and Canali do not explicitly teach ‘to increase a monetary amount of one of the primary bids’ as recited in the claims. However, these recitation are treated as intended use of the second receiving step.” Office Action, page 5. Applicant respectfully disagrees with Examiner’s interpretation of Canali’s intended use as applied to the present claims. As demonstrated above, Canali’s intended use is to combine bids from multiple purchasers of an item such that a larger quantity of items is purchased and, as such, a price for the item is decreased via volume discount. In contrast, the present claims require the combination of two bids such that a monetary value of the bid is increased, thereby increasing the likelihood that an advertisement will be placed on a search results page. In other words, the intended use of Canali is to gain a volume discount by combining the purchasing power of two or more users. This intended use is quite different from increasing the likelihood that a bid will win because it has higher monetary value. Thus, Applicant respectfully asserts that the limitations of the present claims are neither taught, nor suggested, by the intended use of either Davis, or Canali.

Furthermore, for at least the reasons provided above, neither Davis, nor Canali, whether considered alone, or in combination, teach or suggest each and every element of the present claims. Therefore, the present claims are patentable over the cited prior art.

Applicant, accordingly, respectfully requests withdrawal of the rejections under 35 U.S.C. § 103.

Please charge any shortages and credit any overages to Deposit Account No. 19-3140. Any necessary extension of time for response not already requested is hereby requested. Please charge any corresponding fee to Deposit Account No. 19-3140.

Respectfully submitted,
SONNENSCHEIN NATH & ROSENTHAL LLP

Date: October 22, 2009

/Stephen M. De Klerk/

Stephen M. De Klerk
Reg. No. 46,503

P.O. Box 061080
Wacker Drive Station, Sears Tower
Chicago, Illinois 60606-1080
650-798-0342